UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/C.12/1998/SR.35/Add.1
23 November 1998

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Nineteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 35th MEETING

Held at the Palais des Nations, Geneva, on Thursday, 19 November 1998, at 11 a.m.

Chairperson: Mr. GRISSA

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* The summary record of the first part (closed) of the meeting appears as document E/C.12/1998/SR.35.

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The public part of the meeting was called to order at 11 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Third periodic report of Cyprus (continued) (E/1994/104/Add.12; HRI/CORE/1/Add.28/Rev.1)

1. At the invitation of the Chairperson, the members of the delegation of Cyprus resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation to respond to comments and questions raised during the 34th meeting.

3. Ms. LOIZIDOU (Cyprus), replying to questions on the draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, said that the Law Commissioner of the Republic of Cyprus had drafted an opinion on the subject, which was currently under consideration by the Government. Basically, his view was that an optional protocol would be a useful mechanism in ensuring respect for the rights enshrined in the Covenant, but more countries were likely to ratify it if they had the possibility of derogating from certain articles. However, a limit should be placed on the number of articles that could be derogated from, so as not to alter the basic thrust of the protocol. Cyprus was in favour of the establishment of a working group to promote its adoption.

4. In reply to questions relating to the National Institution for the Protection of Human Rights, she said that its structure and mandate were outlined in a decision of the Council of Ministers, dated 16 September 1998, which had been circulated to members of the Committee. The President of the Institution was to be an independent public officer appointed by the Council of Ministers for a five-year renewable term. The Institution would consist of two committees, the Implementation Committee and the Steering Committee, representing the Government and the non-governmental sector respectively. The Implementation Committee comprised representatives of the Offices of the Attorney-General and Commissioner for Administration as well as the main government ministries or any other ministry or government department or a member of the Steering Committee, whose participation was deemed necessary. Representatives were appointed for terms of at least two years, except in the case of the representative of the Ministry of Foreign Affairs.

5. The Steering Committee consisted of a chairman and members. The Chairman, appointed by the Council of Ministers, must be a person with legal qualifications and experience in human rights issues both in Cyprus and abroad. The members of the Steering Committee, who must be persons of known status, were also appointed by the Council of Ministers following proposals by private human rights organizations, the University of Cyprus, the House of Representatives and any other competent professional organizations. The term of office of the Chairman and members of the Steering Committee was five years, and could be renewed.

6. The decision of the Council of Ministers also contained provisions relating to the premises of the Institution and equipment required for its efficient operation. The Institution would be temporarily accommodated in the offices of the Law Commissioner.

7. The functions of the Institution were to provide information and assistance with a view to promoting awareness about human rights, to advise the Government on any human rights matter, to study legislation and case law as well as administrative arrangements concerning the protection of human rights, and to prepare and submit reports to competent bodies, including those set up under international treaties, such as the Covenant. Most of those duties devolved upon the Implementation Committee.

8. The Steering Committee had the special task of investigating and reporting on complaints of human rights violations. There was no possibility of duplication of efforts between the Steering Committee and the Commissioner for Administration (Ombudsman): the latter was not empowered to examine complaints from the private sector, which were the exclusive domain of the Steering Committee. Moreover, paragraph 10 (3) (b) of the ministerial decision on the Institution stipulated that the Steering Committee did not have the right to examine complaints which fell within the competence of other bodies such as the Commissioner for Administration (Ombudsman).

9. The reason the Institution had been established by virtue of a ministerial decision and not by law was principally to save time. The drafting, reading and approval of a bill by parliament would be a lengthy process and it had been felt necessary to set up the Institution immediately.

10. Mr. RIEDEL said that, although the establishment of the Institution was a welcome development, a legal basis for its existence, ratified by parliament, would certainly be preferable. The fact that the Institution had already been set up and was operational should considerably speed up any legislative process that might get under way. He therefore suggested that steps should be taken along those lines without further delay.

11. Ms. LOIZIDOU (Cyprus) confirmed that the Government intended to do precisely that. The independence of the Institution was guaranteed by the fact that its Chairman was the Law Commissioner, an independent officer appointed by the President of the Republic on the same terms as the Attorney-General, the Auditor-General and the President and members of the Supreme Court. The participation of representatives from the private sector afforded an additional safeguard and the enactment of suitable legislation in future would further strengthen its independence. The participation of government officials was considered necessary for promoting and steering through legislative changes aimed at harmonizing national legislation with the provisions of human rights treaties.

12. The Institution had already held two meetings. At its 2nd meeting, on 17 November 1998, it had been decided to organize events to commemorate the fiftieth anniversary of the Universal Declaration of Human Rights and publicize the work of various United Nations bodies.

13. Mr. ADEKUOYE asked whether police officers and other government officials were given appropriate training on human rights instruments and their responsibilities stemming from them.

14. Ms. LOIZIDOU (Cyprus) answered that annual training sessions on human rights were organized at the Cyprus Police Academy. The non-governmental sector was also active in human rights education. Recently one NGO, the Committee for the Restoration of Human Rights throughout Cyprus, had published an information booklet on the Universal Declaration of Human Rights and had distributed it to the National Guard through the Ministry of Defence.

15. Since Cyprus had ratified the Covenant, a considerable number of laws had been enacted which were fully in keeping with its provisions. They included the Legal Status of Children Born out of Wedlock (Ratification) Law (1979); the Maternity Protection Law (1987); the Press Law (1989); the Equal Pay for Men and Women for Work of Equal Value Law (1989); the Family Courts Law (1990); the Commissioner for Administration Law (1991); the European Social Insurance Code (Ratification) Law (1991); the Property Rights of Spouses (Regulation) Law (1991); and the Public Educational Service (Amendment) Law (1991).

16. The delegation had been unable to find any record of court cases in Cyprus in which the provisions of the Covenant had been invoked. Further research would be undertaken and the Committee would be informed of the results in due course.

17. There had been cases in which habeas corpus had been invoked, mainly in connection with refusal of entry or expulsion affecting foreign nationals. Every person in Cyprus had the right to petition the Supreme Court for habeas corpus on the grounds of unlawful detention.

18. Complaints had also been successfully lodged with the Commissioner for Administration (Ombudsman), sometimes with significant implications for Cypriot legislation. For instance, a complaint had been lodged by a Cypriot woman against the Ministry of the Interior concerning a decision by a public official to prevent her marriage to a foreign national, on the strength of a police officer's suspicion that it was a marriage of convenience, although she had fully complied with the preliminary procedures for mixed marriage. The would-be spouse had been ordered to leave the country, since he had no valid residence permit. The Ombudsman had found that the woman's fundamental rights to privacy and to marry the partner of her choice had been violated by the intervention of a public authority. He had further recommended that existing procedures for mixed marriages should be reviewed. The complainant had finally been allowed to marry the foreigner in question.

19. In another case handled by the Ombudsman a complaint had been filed against the Immigration and Aliens Department by a Cypriot woman who had applied for her children to be registered as Cypriot citizens. Her husband was of Cypriot origin and thus eligible for Cypriot citizenship but had failed to apply for it. Her application had been left in abeyance under the Republic of Cyprus Citizenship Law of 1967, which provided that only children of Cypriot fathers could acquire citizenship. The Ombudsman had found that such a provision was not in line with recent legislation in other European

countries, not to mention international efforts to eliminate discrimination against women. Furthermore, the Department of Immigration and Aliens had ignored a clause in article 5.3 of the Citizenship Law whereby the Minister of the Interior had discretionary power to decide whether the children of Cypriot women could be granted citizenship. The Ombudsman had recommended that the complainant's application should be decided on within one month. It had been forwarded to the Minister of the Interior, who had exercised his discretionary power and granted citizenship to the children. In the light of the Ombudsman's report, a committee had been set up to review legislation relating to acquisition of citizenship and to expulsion and entry of foreigners, with the result that a bill would shortly be submitted to parliament to ensure that in future men and women were given equal treatment in such matters.

20. With regard to homosexuality, under a recent amendment to the Criminal Code homosexual relations were no longer considered an offence, provided that they were conducted in private between consenting adults.

21. In response to concerns expressed about the treatment of foreign cabaret artistes and domestic staff, she stressed that they were entitled to enter and leave the island whenever they wished. She denied the assertion that the police withheld passports, restricted their freedom of movement and speech or infringed any of their basic human rights. Foreign workers were entitled to enter into or terminate a regular contract, and were eligible for public health care and social security schemes.

22. The views of women were taken into account, especially during the preparation of legislation on women's issues, where women's associations were regularly consulted. Women MPs were extremely active in Cyprus in promoting legislation relating to women's rights, including, recently, a bill on domestic violence in whose preparation women's associations had been closely involved.

23. As to the position of women in society, the newly appointed Auditor-General of the Republic was a woman. Only the previous day the President of the Republic had publicly announced that the Government's policy was to appoint women to the cabinet. Two women candidates had also been proposed for the vacant post of ombudsman.

24. Under section 10 of the Alien and Immigration Law of 1952, which dated back to the colonial regime, no foreigner had an absolute right of entry. That law itemized a number of categories of person constituting prohibited immigrants, including persons suffering from contagious or infectious diseases. In practice, however, persons entering Cyprus and found to be suffering from such diseases were not expelled, but were treated in Cyprus. She cited the example of an official of an offshore company found to be suffering from AIDS, who was currently receiving treatment in Cyprus. The Alien and Immigration Law was currently being reviewed, and it was intended to amend it within six months.

25. It had been asked what steps were taken to overcome the reluctance of prostitutes and foreign workers to press charges. She cited legislation providing that foreigners exploited in the workplace could apply to the Minister of Labour for a permit to be employed in the same occupation by a different employer.

26. Ms. BONOAN-DANDAN, Mr. ADEKUOYE and the CHAIRPERSON appealed to the Cypriot delegation to focus on the gaps between the provisions of domestic legislation and actual implementation, rather than merely citing the relevant provisions. They asked what concrete measures were being taken to redress situations in which such gaps were perceived.

27. Mr. RIEDEL, also supporting Ms. Bonoan-Dandan's remarks, appealed to the delegation of Cyprus to be concise, and to address only those issues not adequately covered in the written replies.

28. Ms. LOIZIDOU (Cyprus) said that foreign workers and prostitutes wishing to bring proceedings against employers or other persons who had exploited them enjoyed police protection, as well as free accommodation and financial assistance to enable them to remain in Cyprus until those proceedings had been completed. Victims not wishing to bring proceedings or testify were of course free to leave the country.

29. On the de jure and de facto status of children born out of wedlock, she said that persons could invoke their right to enforcement of the relevant legislation before the courts. Children born out of wedlock of a Cypriot mother had the right to be citizens of Cyprus in accordance with the Citizenship Law. The 1991 Children (Relationship and Legal Status) Law, which gave effect to the provisions of the relevant European convention, simplified legitimation procedures in order to afford children born in and out of wedlock the same rights and responsibilities. The Parents and Children (Relations) Law of 1990 provided that a child born of unmarried parents should take the surname of the mother, or of the father with the mother's consent.

30. Ms. JIMÉNEZ BUTRAGUEÑO asked whether the term "illegitimate", which carried a certain stigma, was still used in the civil register.

31. The CHAIRPERSON, speaking as a member of the Committee, asked the Cypriot delegation to clarify the criteria adopted for determining the nationality of a child. What, for instance, would be the nationality status of a foundling?

32. Ms. LOIZIDOU (Cyprus) said that under domestic legislation a person must have at least one parent of Cypriot nationality to be eligible for citizenship. Abandoned children of unknown parentage were entitled to all the welfare services for which Cypriot children were eligible. At majority they could apply for Cypriot nationality.

33. Mr. SADI, noting that Cyprus had ratified the Convention on the Rights of the Child, said he supposed that a foundling would be entitled to Cypriot nationality, as provided for in that Convention.

34. Ms. LOIZIDOU (Cyprus) confirmed that the provisions of the Convention on the Rights of the Child prevailed over those of domestic law.

35. Ms. THEODOROU (Cyprus) added that the social services would first try to trace the child's relatives. If that attempt failed, the child would be taken into care and either placed in a foster family or, preferably, adopted.

36. Mr. ADEKUOYE noted that the written reply to question 44 in the list of issues referred to "special legitimation procedures". What additional procedure was required for the judicial recognition of a child whose father had acknowledged paternity?

37. Ms. LOIZIDOU (Cyprus) said that if the father did not voluntarily recognize the child, the latter could make a judicial application for recognition.

38. Ms. LOIZIDOU (Cyprus), addressing the question of domestic violence, said that some administrative difficulties had arisen following the adoption of the 1994 Violence in the Family (Prevention and Protection of Victims) Law. Those difficulties had now been overcome, family counsellors and an advisory committee had been appointed, and the Law was fully enforced. In June 1998 the Attorney-General of the Republic had set up a team of high-ranking lawyers responsible for examining reports or complaints of violence in the family and for recommending appropriate action.

39. Ms. THEODOROU (Cyprus) said that persons over the age of 65 accounted for 11 per cent of the population, while the proportion under the age of 15 was decreasing. The Social Insurance Law, the Public Assistance Law and the recently introduced social pension guaranteed a basic standard of living for the elderly. Currently, 95,000 people over the age of 65 were entitled to various pensions and allowances, in a total annual amount of £C 193 million. A continuum of services for the elderly had been established, including residential care, home care, day-care centres and "meals on wheels". Currently, 4,000 people were cared for in homes for the elderly, at an annual cost of £C 6.5 million. Another 3,500 elderly people were in receipt of professional home care, at an annual cost of almost £C 2 million. Two new laws regulated old people's homes and day-care centres. Many community services had also been established by NGOs, with technical and financial assistance from the Government.

40. Children placed in institutions were first placed under the care of the Director of Social Services. If the parents contested the Director's decision to place the child in an institution, he must then apply for a court order. He could also assume parental rights over children without parents or guardians, or whose parents were incapable of discharging their role. In a recent case, the Director had assumed parental rights over a child suffering from leukaemia whose parents had refused to authorize a blood transfusion. The child had since made a full recovery. Available facilities included four children's homes, two hostels for boys and one for girls, each catering for 30 children, and one home for severely retarded children. No further expansion of institutional care was envisaged, as the preferred policy was to place children in a family environment.

41. With regard to equal pay between men and women, developments in respect of both collective agreements and average wages had been positive over the past few years, particularly since 1992. Pay scales were now classified according to objective criteria such as job type and/or skill levels, rather than gender. Gender differentials in terms of both mean and median income had fallen considerably between 1994 and 1996. The ILO Committee of Experts concerned had commented favourably on the situation in Cyprus in its 1996 Observation on the application of the Equal Remuneration Convention.

42. Turning to the question of pregnant women working at night, she said that the Government had drawn up draft regulations in full compliance with the European Union's Council Directive 92/85/EEC of October 1992 which, inter alia, provided for measures to encourage improvements in the occupational safety and health of pregnant workers.

43. With regard to retirement age, most workers retired between 60 and 65, except for those working in public service, semi-governmental organizations, banks and oil companies, which enforced their own retirement ages strictly. Retirement age was not determined by law directly, and the great majority of collective agreements either contained no provision on retirement, or made reference to the Social Insurance legislation.

44. On the question of the social security rights of foreign workers, she said that the Social Insurance legislation accorded foreign workers the same rights and obligations as Cypriot nationals. The Government had ratified article 12 of the European Social Charter relating to social security rights, and ILO Convention No. 102 on minimum standards for social security. The Government had also concluded bilateral agreements on social security with the countries that experienced the greatest movements of Cypriot workers.

45. With regard to draft legislation regulating the right to strike in essential services, the Committee of Ministers referred to in the previous report of Cyprus had recently held consultations with the trade unions. On the basis of those discussions and the recommendations of an ILO expert who had advised whether the draft Law was in line with the provisions of the relevant ILO Conventions, the Committee of Ministers had prepared several amendments to the draft legislation which had then been put to the trade unions at a meeting held in June 1998, i.e., outside the reference period for the present report. The unions had undertaken to submit their views within a set period, and it was hoped that further progress would be achieved in time for the next report to the Committee.

46. The situation concerning women working in agriculture was that the discrimination and other inequalities in social insurance legislation described in the delegation's answer to Q. 14 would be abolished once the Government introduced new national legislation in line with EU Directive 79/7/EEC. As for the existing inequalities in respect of incomes for dependants, marriage grants and widows' pensions, the Government was consulting its social partners with a view to introducing measures to abolish the current legislation.

47. With regard to the employment of children, the Children and Young Persons (Employment) Laws prohibited the employment of any child under the age of 15, with no exceptions. Moreover, since 1993 education had been compulsory until completion of the gymnasium cycle or the fifteenth year of age, whichever occurred first. The Government had ratified and was applying in full the paragraphs of the European Social Charter relevant to the minimum age for employment. The Council of Europe Committee of Independent Experts had not found it necessary to make any observations on Cyprus's implementation of the relevant article of the Charter. The Government had also ratified ILO Convention No. 138. Overall, it was satisfied that the phenomenon of working children did not exist in Cyprus.

48. Finally, with regard to the question on pensionable age, she said that under the Social Insurance legislation the age for both men and women had been set at 65, with the exception of women born before 1 January 1935, who could receive a pension at 63. Insured persons who satisfied certain contribution conditions could also receive their pension at 63 and, since the payment of pension was not conditional upon retirement, were able to work and receive a pension at the same time.

49. Mr. PNEUMATICOS (Cyprus), replying to the request for further information on the percentage of the population earning less than the average per capita income, said that in 1997 the mean monthly income had been US$ 669, and the median income US$ 563. Some 50 per cent of the population earned less than the median income.

50. Mr. THAPALIA noted that in recent reports the Human Rights Committee and the Committee on the Rights of the Child (CRC) had expressed concern about "key areas in which children were not adequately protected", "the recent incidence of prostitution affecting particularly non-Cypriot children", and "the increasing number of children working as domestic servants who were vulnerable to all types of abuse". The CRC, in its 1996 Concluding Observations, had recommended that the authorities should gather information and initiate a comprehensive study to improve the understanding of the nature and scope of the problem of child neglect and abuse. In view of the fact that in 1990 the Government had introduced a new law that complied with the Convention on the Rights of the Child and had also brought into force an amended law on the employment of children and young persons which, according to the report before the Committee, "effected significant improvements to the protection of employed children and young persons", he wondered why specific data regarding the number of children engaged in paid employment was not available. What measures had the Government taken to remedy the situation since its second report?

51. Mr. ADEKUOYE asked what provisions were made for the children of Greek Cypriot families living in the occupied zone who had to leave their families and move south in order to attend secondary school.

52. Mr. EFTYCHIOU (Cyprus) said that he was sceptical about the reports from various sources that children had entered Cyprus illegally and were engaged in work and/or prostitution. Children were not admitted without their parents, and as Cyprus was a small island it was inconceivable that they could enter by any other means.

53. The CHAIRPERSON said it was a regrettable fact that children were smuggled into countries worldwide for illegal purposes.

54. Mr. EFTYCHIOU (Cyprus) said that, mainly because of the island's size, attempts at illegal immigration, one of which had occurred recently, had not been difficult to detect.

55. Ms. THEODOROU (Cyprus) said that the social services acted promptly when children became separated from their families for any reason. Most were placed in foster families and the island's four children's homes were therefore not full.

56. Children who left their families in the occupied zone to attend school in the south were offered every conceivable form of support by the Government.

57. Mr. RIEDEL asked to what extent the high obesity levels identified in the report were due to poverty, rather than lifestyle. Secondly, could the delegation provide more details of the system of grants and subsidies used to ensure "habitable housing", with particular reference to refugees coming to settle in Cyprus from the occupied areas? Finally, the Committee would like to know what happened when forced evictions occurred, given the fact that the delegation's answer to question 54 stated that there was no law which prohibited forced evictions.

58. Mr. ADEKUOYE said that on the basis of information made available to it, the Committee understood that groups of workers, such as shop assistants, assistant clerks and assistant hairdressers, existed on a minimal wage that was inadequate for their needs. Could they receive public assistance allowances? Secondly, what did the Government mean by the term "Mediterranean diet" in the context of its programme to reduce obesity and high cholesterol levels? By what means did the Government monitor administration of the grants and subsidies it provided for upgrading housing to a habitable level? If there was no law prohibiting forced evictions, what remedies were currently applied when it occurred? Finally, part of the answer to Q. 56 stated that the Government repaired and maintained old Turkish Cypriot houses and had handed them over to refugee families temporarily until the return of the legal owners. What happened in practice when the owners returned? How many such cases had occurred?

59. With regard to article 12, how did the Government ensure that refugees were given the same access to health care as Cypriot nationals? Did the existing situation satisfy UNHCR recommendations?

60. Mr. SADI asked whether any evidence was available to indicate that Cypriots were moving away from their traditional diet in response to the Government's "Healthy Children" programme and promotion of a Mediterranean diet.

61. Mr. WIMER said that the discussion on diet threatened to become complicated. He noted that WHO had expressed the opinion that a Mediterranean diet contributed to longevity.

62. The CHAIRPERSON, referring to Q. 62, said he would like more details about instances of AIDs in relation to tourism, as the tourist industry was such an important part of the Cypriot economy.

The meeting rose at 1 p.m.